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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,377	10/30/2003	Clifford J. Radtke JR.	1122	7896

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Donald J. Ersler  
725 Garvens Avenue  
Brookfield, WI 53005

EXAMINER

GREEN, ANTHONY J

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/697,377

Applicant(s)

RADTKE, CLIFFORD J.

Examiner

Anthony J. Green

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/19/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities:

On page 4, line 15, the phrase "Ca<sub>3</sub> Al<sub>2</sub>O<sub>6</sub> Fe<sub>2</sub>O<sub>3</sub> CaO" should be replaced with the phrase -- Ca<sub>3</sub> Al<sub>2</sub>O<sub>6</sub> Fe<sub>2</sub>O<sub>3</sub> --.

On page 5, line 2, the term "SiO<sub>2</sub>" should be replaced with -- SiO<sub>2</sub> --.

On page 5, line 7, the term "SiO<sub>2</sub>" should be replaced with -- SiO<sub>2</sub> -- and the term "thirotrope" should be -- thixotrope --.

On page 5, line 13, it is believed the term "pazzalan" should be -- pozzolan --.

On page 5, line 13, the formula for Fly ash appears to be incorrect due to the presence of "AiO<sub>2</sub>" which is not understood. Applicant should rewrite the formula correctly with proper subscripts.

On page 5, line 22, the formula for Mineral wool: "SiO<sub>2</sub> CaO Al<sub>2</sub>O<sub>3</sub> MgO Fe<sub>2</sub>O<sub>3</sub>" should be replaced with -- SiO<sub>2</sub> CaO Al<sub>2</sub>O<sub>3</sub> MgO Fe<sub>2</sub>O<sub>3</sub> --.

On page 6, lines 14-15, the formula for the Calcium Aluminate cement: "Al<sub>2</sub>O<sub>3</sub> CaO SiO<sub>2</sub> Fe<sub>2</sub>O<sub>3</sub> Na<sub>2</sub>O" should be replaced with -- Al<sub>2</sub>O<sub>3</sub> CaO SiO<sub>2</sub> Fe<sub>2</sub>O<sub>3</sub> Na<sub>2</sub>O --

On page 6, line 22, it is believed the term "pazzalan" should be -- pozzolan --.

On page 7, line 1, the formula for the ceramic fiber: Al<sub>2</sub> O<sub>3</sub> SiO<sub>2</sub> Ca P<sub>2</sub> O<sub>5</sub>" should be replaced with Al<sub>2</sub>O<sub>3</sub> SiO<sub>2</sub> Ca<sub>2</sub>P<sub>2</sub>O<sub>5</sub> --

On page 9, line 23, it is believed the term "power" should be -- powder --.

Appropriate correction is required.

***Claim Objections***

2. Claims 2 and 8 are objected to because of the following informalities:

In claim 2, the formula "Ca<sub>3</sub> Al<sub>2</sub>O<sub>6</sub> Fe<sub>2</sub>O<sub>3</sub> CaO" should be replaced with the formula -- Ca<sub>3</sub> Al<sub>2</sub>O<sub>6</sub> Fe<sub>2</sub>O<sub>3</sub> --.

In claim 8, the formula "Al<sub>2</sub>O<sub>3</sub> CaO SiO<sub>2</sub> Fe<sub>2</sub>O<sub>3</sub> Na<sub>2</sub>O" should be replaced with the formula -- Al<sub>2</sub>O<sub>3</sub> CaO SiO<sub>2</sub> Fe<sub>2</sub>O<sub>3</sub> Na<sub>2</sub>O --

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In the claims the term "coating" claimed as such is indefinite and misdescriptive. *Ex parte Scott* 66 USPQ 371. Applicant needs to insert the term "composition" after the term "coating" which will overcome this rejection.

In claim 1 it is unclear as to what the parts by weight are based on. Is it based on the total composition, the dry mix or what? Clarification is requested.

In claim 3 it is unclear as to what the parts by weight are based on. Is it based on the total composition or what? Clarification is requested.

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In claim 4 the phrase "combined with between 44-54 parts by weight" is not understood as it is unclear as to what the binder solution is mixed with. Clarification is requested. Also what are the parts by weight based on?

In claim 5 it is unclear as to what the parts by weight are based on. The total composition or what? Clarification is requested.

In claim 7 it is unclear as to what the parts by weight are based on. Is it based on the total composition, the dry mix or what? Clarification is requested.

In claim 9 it is unclear as to what the parts by weight are based on. Is it based on the total composition or what? Clarification is requested.

In claim 10 it is unclear as to what the parts by weight are based on. The total composition or what? Clarification is requested.

In claim 11 it is unclear as to what the parts by weight are based on. The total composition or what? Clarification is requested.

In claim 13 it is unclear as to what the parts by weight are based on. Is it based on the total composition, the dry mix or what? Clarification is requested.

In claim 14 it is unclear as to what the parts by weight are based on. Is it based on the total composition or what? Clarification is requested.

In claim 15 the phrase "combined with between 44-54 parts by weight" is not understood as it is unclear as to what the binder solution is mixed with. Clarification is requested. Also what are the parts by weight based on?

***Allowable Subject Matter***

5. Claims 1-16 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

***Information Disclosure Statement***

6. The reference cited by applicant has been considered however it is not seen to teach and/or fairly suggest the instant invention.


***References Cited By The Examiner***

7. The references are cited as showing the general state of the art and as such, they are not seen to teach or fairly suggest the instant invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony J. Green whose telephone number is 571-272-1367. The examiner can normally be reached on Monday-Thursday 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark L. Bell can be reached on 571-272-1362. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Anthony J. Green  
Primary Examiner  
Art Unit 1755

ajg  
February 16, 2005